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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Kato *et al.*

Appln. No. 10/555,343

§ 371 Date: November 1, 2005

For: Freeze-Dried Preparation
Containing Methylcobalamin and
Process For Producing Same

Confirmation No. 4524

Art Unit: 1614

Examiner: Zohreh Vakili

Atty. Docket: 1089.0590000/MAC

Reply To Restriction Requirement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated January 9, 2008, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of Group I, represented by claims 1-15. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made **with** traverse.

The Examiner states that the common technical feature of all groups is a freeze dried preparation comprising methylcobalamin and a process for producing it. The Examiner states that this element cannot be a special technical feature under PCT Rule 13.2 because the element is shown in the prior art, and specifically, Hogenkamp *et al.*, US Pub No. 20020042394.

Applicants respectfully reply that the Examiner errs in the determining of the special technical feature. The special technical feature that unites Groups I and II is not

simply the presence of methylcobalamin. Rather, it is that one of more species of the excipient that is in the freeze-dried methylcobalamin preparation, is in an amorphous state. This novel special technical feature is not disclosed by Hogenkamp. As a result, there is unity of invention with regard to Groups I and II.

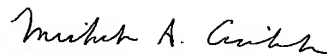
Additionally, Applicants respectfully assert that there would not be an undue burden on the Examiner to search all of the groups.

Accordingly, reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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